

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

HERDADE S. LOKUA, and JOSPIN K.
MUJANGI

Defendant.

CASE NO. CR21-0185-JCC

ORDER

This matter comes before the Court on the parties' stipulated motion to continue the trial date and pretrial motions deadline. (Dkt. No. 31.) The parties seek a continuance in light of logistical challenges facing defense counsel in communicating with their clients, which requires travel to the Federal Detention Center and French language interpreters. (*Id.* at 2.) They also say a continuance is necessary to complete plea negotiations, prepare plea agreements and French translations, and work towards final drafts of the same. (*Id.*).

The Speedy Trial Act does not expressly provide for excluding delays arising from continuances granted to facilitate plea negotiations. *See generally* 18 U.S.C. § 3161(h). But some courts recognize that an ends-of-justice continuance is proper to give the parties time to pursue plea negotiations. *See United States v. Bonilla-Filomeno*, 579 F.3d 852, 857 (8th Cir. 2009) (affirming ends-of-justice finding based on the asserted need for more "time to pursue plea

1 negotiations or prepare for trial”); *United States v. Fields*, 39 F.3d 439, 445 (3d Cir. 1994)
2 (affirming ends-of-justice continuance based solely on the need for time to pursue plea
3 negotiations). The Ninth Circuit, however, is not among them. It holds that “[n]egotiation of a
4 plea bargain is not one of the factors supporting exclusion.” *United States v. Ramirez-Cortez*, 213
5 F.3d 1149, 1155–56 (9th Cir. 2000) (quoting *United States v. Perez-Reveles*, 715 F.2d 1348, 1252
6 (9th Cir. 1983)) (alteration original).

7 In *Ramirez-Cortez*, however, “[t]he *only* articulated grounds” for the continuance “was
8 the defendant’s desire to engage in additional plea negotiations.” 213 F.3d at 1155 (emphasis
9 added). Here, in contrast, it appears that plea negotiations have already borne fruit and may be
10 productive if continued. (*See* Dkt. No. 31 at 2 (requesting more time “to *complete* plea
11 negotiations” (emphasis added)).) The record thus suggests that denying a continuance could
12 result in a miscarriage of justice, which was not clear in *Ramirez-Cortez*. At the same time,
13 settlement in this case is not a foregone conclusion. (*See id.* (implying that Defendants have yet
14 to review or approve any draft plea agreements)). So the need to strategize and prepare for trial is
15 part and parcel of the parties’ requested continuance—in essence, the flip side of the same coin
16 as the need for more time to conclude plea negotiations.

17 Therefore, having thoroughly considered the parties’ motion and the relevant record, the
18 Court FINDS that the ends of justice served by granting a continuance outweigh the best interest
19 of Defendants and the public to a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A). The reasons for
20 this finding are:

21 1. Taking into account the exercise of due diligence, a failure to grant a continuance
22 in this case would deny defense counsel the reasonable time necessary for effective preparation
23 due to the need for more time because Defendants are in custody and do not speak English, and
24 for counsel to confer with their clients and consider case strategy, as set forth in 18 U.S.C.
25 § 3161(h)(7)(B)(iv); and

26 2. A failure to grant such a continuance in this proceeding would likely result in a

1 miscarriage of justice, as set forth in § 3161(h)(7)(B)(i).

2 The Court therefore ORDERS that:

3 1. The parties' stipulated motion to continue the trial date and pretrial deadlines
4 (Dkt. No. 31) is GRANTED.

5 2. The June 6, 2022 jury trial is CONTINUED to July 11, 2022.

6 3. The deadline for pretrial motions and motions *in limine* is CONTINUED to June
7 24, 2022. Parties should consult the Court's Chambers Procedures posted on its website for
8 detailed instructions regarding pretrial submissions and trial procedures.

9 4. The time from the date of this order until the new July 11, 2022 trial date is an
10 excludable period under 18 U.S.C. § 3161(h)(7)(A).

11 DATED this 20th day of May 2022.

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15 John C. Coughenour
16 UNITED STATES DISTRICT JUDGE
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